



Department of Justice  
Federal Bureau of Prisons

**Record of Decision: Proposed United States Penitentiary and  
Federal Prison Camp, Letcher County, Kentucky**

**I. INTRODUCTION**

This document provides a Record of Decision (ROD) pursuant to the National Environmental Policy Act of 1969 as amended (NEPA), documenting my decision regarding the proposal by the United States (U.S.) Department of Justice, Federal Bureau of Prisons (Bureau) to acquire a site up to 800 acres in size and construct and operate a U.S. Penitentiary (USP) and Federal Prison Camp (FPC) in Letcher County, Kentucky. The ROD describes the rationale for selecting Modified Alternative 2-Roxana as the chosen alternative.

The Bureau's decision is based on information and analysis contained in the Final Supplemental Revised Final Environmental Impact Statement (RFEIS) issued September 2017, the Draft Supplemental RFEIS issued March 2017, the RFEIS issued April 2016, the Draft EIS issued February 2015, technical studies, and comments from federal and state agencies, elected officials, organizations, and individuals.

The purpose of this ROD is to publish the Agency's decision with respect to the environmental review process. Nothing in this ROD should be taken as an indication that the Bureau intends to proceed (or not to proceed) with the development of a federal correctional facility in Letcher County. Such decision will be made at the appropriate time.

**II. BACKGROUND**

The Bureau prepared an EIS to evaluate the potential environmental effects of site acquisition and development of the USP and FPC at two potential locations in Letcher County: Alternative 1-Payne Gap and Alternative 2-Roxana. The No Action Alternative was also evaluated. The Draft EIS was published in February 2015 and the Final EIS was published in July 2015.

In consideration of comments received on the Final EIS, the Bureau withdrew the July 2015 Final EIS and prepared a RFEIS. The RFEIS corrected inconsistencies in the Final EIS, provided more complete discussion of some topics addressed in the Final EIS, and provided more complete responses to comments received on the Draft EIS than were provided in the Final EIS. Also, as

a result of Final EIS comments received, the Bureau confirmed that written notice of availability of the Final EIS had not been directly provided to at least twenty-two parties who had requested it; therefore, these parties received less than the intended, full 30-day review period on the Final EIS. By publishing the RFEIS and providing a 30-day review period, all interested parties were afforded a new review period. The March 2016 RFEIS was published on April 1, 2016. The 2016 RFEIS made no change to the proposed action. As did the withdrawn Final EIS, the 2016 RFEIS evaluated Alternative 1-Payne Gap, Alternative 2-Roxana, and the No Action alternative.

The Bureau was originally considering acquiring approximately 700 acres at the Roxana site or 750 acres at Payne Gap for this project. Following publication of the March 2016 RFEIS, in which Alternative 2-Roxana was identified as the preferred alternative, the Bureau removed two parcels of land at the Roxana site from acquisition consideration, resulting in a proposed site of approximately 570 acres. The Bureau conducted a number of detailed studies at the Roxana site and determined this smaller site size would be a viable alternative for constructing and operating a USP, FPC, and ancillary facilities. However, the reduction in site size necessitated modifying the facilities layout evaluated for Alternative 2-Roxana in the 2016 RFEIS. The Bureau prepared a Supplemental RFEIS to assess new circumstances and information relevant to potential environmental impacts as a result of the modifications to the Roxana site size and facilities layout under Modified Alternative 2-Roxana. The Draft Supplemental RFEIS analyzed Modified Alternative 2-Roxana and the No Action Alternative. Alternative 2-Roxana from the 2016 RFEIS was eliminated from further evaluation because the original site configuration was no longer feasible. The Draft Supplemental RFEIS was published in March 2017, and the Final Supplemental RFEIS was published in September 2017.

### **III. PURPOSE AND NEED FOR THE PROJECT**

The purpose of the proposed federal correctional facility in Letcher County is to develop additional high-security facilities to increase capacity for current inmate populations in the Mid-Atlantic Region based on the need for additional bed space. The Bureau has studied the need for an additional high-security penitentiary and an associated federal prison camp in the Mid-Atlantic Region, and has continually updated inmate population totals throughout the EIS process. The overall

prisoner population is declining. On June 13, 2017, the U.S. Department of Justice Deputy Attorney General testified before the House Committee on Appropriations that the federal inmate population has declined 14 percent, totaling 30,000 inmates, over the last four years. Although the inmate population has been declining in recent years, as of November 28, 2017, the size of the total inmate population in the Bureau's institutions exceeds the rated capacity of its prisons by 14 percent, with its high-security level institutions (USPs) at an approximate 29 percent overcrowded rate. Based on recent U.S. Department of Justice policy changes in prosecution priorities, the Bureau's Fiscal Year 2018 total inmate population is projected to increase to approximately a 16 percent overcrowded rate, and high-security level institutions population is projected to remain at 29 percent overcrowded.

There is a continuing need for additional high-security male facilities in the Mid-Atlantic Region, where every existing high-security male facility has been operating, and continues to operate, above its rated capacity. As of November 28, 2017, the four high-security male facilities in this region housed approximately 4,797 high-security male inmates, but their total rated capacity is 3,441 inmates. Therefore, the Bureau has determined the Mid-Atlantic Region high-security male facilities are overcrowded and exceed rated capacity by 39 percent.

Overcrowding in the Mid-Atlantic Region facilities compromises the mission of the Bureau. The Bureau faces challenges in providing for inmates' care and safety in crowded conditions, as well as the safety of Bureau staff and surrounding communities, within budgeted levels. Provision of a new USP and FPC with additional high-security bed space in Letcher County would meet the need to ensure a safe and secure environment for both staff and inmates, particularly as it applies to higher security inmates, within the Mid-Atlantic Region, afford the Bureau continued management of inmates originating from the region, allowing those inmates to remain close to family, which aids in the rehabilitation process.

The Bureau proposes to acquire up to 800 acres in Letcher County to construct and operate a USP, FPC, and associated ancillary facilities. The ancillary facilities would include a central utility plant, outdoor firing range, outside warehouse, staff training building, garage/landscape building, access roads, and parking lots. A non-lethal/lethal fence and site lighting would also be installed. The proposed USP would house approximately

960 high-security male inmates, and the FPC would house approximately 256 minimum-security male inmates for a total population of approximately 1,216 inmates. Together both facilities would employ approximately 300 full-time staff upon operation. Development of the USP and FPC in Letcher County is proposed to provide an additional USP and FPC for mission support to increase capacity for current inmate populations in the Mid-Atlantic Region and reduce the overcrowding in this region's high-security male facilities.

#### **IV. ALTERNATIVES CONSIDERED**

##### **A. No Action Alternative**

The No Action Alternative is defined as a decision by the Bureau not to proceed with the proposed action. Under this alternative, the Bureau would not acquire land to construct and operate a new USP and FPC to house a portion of the federal inmate population and would result in a continuation of the status quo, with existing USPs in the Mid-Atlantic Region remaining overcrowded at current levels and their associated FPCs remaining at or near capacity. Selection of the No Action Alternative would avoid environmental impacts associated with development and operation of the proposed USP and FPC.

The No Action Alternative does not meet the purpose of and need for the proposed action because it does not address the Bureau's need to provide additional capacity to reduce current overcrowding of the federal inmate population in other federal correctional facilities in the Mid-Atlantic Region, particularly in the high-security male facilities.

##### **B. Alternative Project Locations Within Geographic Area of Interest**

The Bureau has a continuing need for additional high-security male facilities within the Mid-Atlantic Region. None of the existing federal lands or facilities in the Mid-Atlantic Region within the jurisdiction of the Bureau have sufficient space to accommodate the development of the proposed facilities. In addition, no reasonable alternatives for the use of existing land or facilities outside of the jurisdiction of the Bureau were identified within the Mid-Atlantic Region.

The Letcher County Planning Commission contacted the Bureau with an offer of potential sites for a new USP and FPC in Letcher

County. The Letcher County Planning Commission identified four potential locations that could meet the needs of the Bureau, and brought these sites to the attention of the Bureau to determine if the Bureau had an interest in developing a new facility at one of the locations. Between 2008 and 2010, the Bureau conducted two site reconnaissance studies to collect preliminary data on the four sites that have been offered by members of the community to determine their suitability for development based on site conditions, infrastructure and utilities, and environmental resources. Based on the initial analyses, the Bureau determined the four sites, referred to as Meadow Branch, Payne Gap, Roxana, and Van/Fields, should be studied in more detail in a feasibility study.

During the initial phase of the feasibility study, changes with the offeror of the Meadow Branch site resulted in the removal of the site from consideration by the Bureau; therefore, no detailed analysis of the site was included in the feasibility study. The remaining three sites were assessed for potential impacts to infrastructure and environmental resources, including archaeological sites and historic architectural resources, wetlands, and geological conditions. The feasibility study highlighted potential concerns with development of each site, as well as estimated costs of development of each site in relation to infrastructure improvement and site preparation (i.e., excavation and/or fill and grading activities). Based on the analysis in the feasibility study, that was completed in 2012, the Bureau determined that there were no constraints that would prevent development of any of the three sites. Changes with the offeror of the Van/Fields site during the final stages of the feasibility study eliminated this site from further consideration. The Bureau carried forward the remaining two sites, Payne Gap and Roxana, for analysis in the EIS.

## **1. Alternatives Evaluated in the Draft EIS, Final EIS, and 2016 RFEIS**

### **2.**

Two action alternatives and the No Action Alternative were evaluated in the February 2015 Draft EIS, July 2015 Final EIS, and March 2016 RFEIS.

#### Alternative 1-Payne Gap

Development of a USP and FPC at the Payne Gap site (Alternative 1) would involve acquisition of approximately 753 acres located in eastern Letcher County, approximately 7 miles northeast of

the city of Whitesburg, along the Kentucky and Virginia border. The proposed site is situated on a gently sloped to steeply sloped upland land form, and is covered with secondary growth forests. The original topography of portions of the site has been altered by past surface and deep mining and by associated mining activities such as spoil piles, roads, and fill piles. No active mining is occurring on site. The proposed facilities layout for Alternative 1 consists of developing the north half of the Payne Gap site with the USP, FPC, and ancillary buildings, and accessing the site from U.S. Route 119. To accommodate the USP, FPC, ancillary buildings, and roads, Alternative 1 would require more extensive rock excavation and fill to level and prepare the site for construction than would Alternative 2.

#### Alternative 2-Roxana

Development of a USP and FPC at the Roxana site (Alternative 2) would have involved acquisition of approximately 700 acres located in western Letcher County, approximately 7.5 miles west of Whitesburg. The site is forested except for a large open area near the center of the site created from past surface mining activities. No active mining is occurring on site. The Bureau proposed constructing the FPC in the north portion of the Roxana site and the USP and ancillary buildings in the central portion of the site. The proposed facilities layout included an access road extending along the east side of the facilities from KY 588.

### **3. Alternatives Evaluated in 2017 Draft and Final Supplemental RFEIS**

The 2017 Draft and Final Supplemental RFEIS analyzed Modified Alternative 2-Roxana and the No Action Alternative. Alternative 1-Payne Gap was incorporated by reference. Alternative 2-Roxana from the 2016 RFEIS was eliminated from further evaluation because the original site configuration was no longer feasible.

#### Modified Alternative 2-Roxana

Under Modified Alternative 2-Roxana, the Bureau would acquire approximately 570 acres of land at Roxana. Because of the reduced site size, the Bureau modified the facilities layout evaluated for Alternative 2-Roxana in the 2016 RFEIS. In the modified facilities layout under this alternative compared with the 2016 alternative, the FPC would be situated closer to the

USP and the access road would extend from KY 588 along the west side of the FPC rather than the east side.

### **C. Preferred Alternative**

Modified Alternative 2-Roxana best meets Bureau operational and security requirements while minimizing potential environmental and other impacts and is considered the Preferred Alternative. Modified Alternative 2-Roxana best meets the purpose of the proposed action by providing an additional high-security penitentiary and an associated prison camp to increase capacity for current inmate populations in the Mid-Atlantic Region. In addition, Modified Alternative 2-Roxana satisfies the continuing need for additional high-security facilities within this region, despite recent declines in other than high-security in-mate population groups, to reduce the demonstrated overcrowding that compromises the mission of the Bureau.

Although both the Payne Gap and Roxana sites accommodate the required facilities, Modified Alternative 2-Roxana is the Preferred Alternative because it would have, on balance, fewer impacts to the human and natural environment as compared with Alternative 1-Payne Gap evaluated in the 2016 RFEIS. Both build alternatives would have direct adverse impacts to topography, geology, and soils; however, much greater site preparation work would be required at the Payne Gap site. Except for the potential impact to the natural gas infrastructure, Modified Alternative

2-Roxana would have less than significant impacts to infrastructure and utilities, while Alternative 1-Payne Gap would have significant impacts to potable water capacity, wastewater treatment capacity, and natural gas infrastructure. Under Modified Alternative 2-Roxana, impacts to streams and forest would be less than those under Alternative 1-Payne Gap. Development of the proposed action under Alternative 1-Payne Gap would impact approximately 100 more acres of summer habitat of federally listed bat species when compared with Modified Alternative 2-Roxana.

### **D. Avoidance, Minimization, and Mitigation Measures**

The Bureau will implement the following avoidance, minimization, and mitigation measures and best management practices to reduce the environmental impacts of the Selected Alternative. No mitigation is required for socioeconomic and environmental justice, as the Selected Alternative would not result in adverse

impacts to socioeconomics, environmental justice populations, or children, and no mitigation is required for cultural resources, as the Preferred Alternative would have no impact to National Register of Historic Places-listed or eligible cultural resources.

### **1. Land Use and Zoning**

- a) Provide an open space and vegetative buffer between the USP and FPC to maintain visual compatibility with surrounding properties.
- b) Design and locate the facilities to reduce the visual presence of the facility from neighboring properties.
- c) Maintain a 125-foot buffer between FPC construction activities and the Whitaker property.
- d) Maintain a 100-foot buffer between access road construction activities and the Frazier Cemetery.
- e) Use full cutoff light fixtures to minimize off-site adverse impacts of lighting.

### **2. Topography, Geology, and Soils**

- a) Prepare a Stormwater Pollution Prevention Plan with a soil erosion and sediment control plan and submit it to the Kentucky Department for Environmental Protection, Division of Water for approval prior to construction.
- b) Implement construction-period and permanent surface water and stormwater control plans to manage runoff.
- c) Phase the construction of the USP, FPC, and ancillary facilities to occur at different times to minimize soil disturbance by only clearing areas necessary for the current phase of construction.
- d) Re-vegetate disturbed areas following the completion of construction to minimize the erosion of exposed soil.

### **3. Community Facilities and Services**

- a) Discuss the development of a Memorandum of Understanding with the Whitesburg Police Department and Mayor of Whitesburg to determine the department's status and what steps may be taken to offset potential impacts to Whitesburg Police Department operations or its equipment.



#### **4. Transportation and Traffic**

- a) Require the selected construction contractor to perform an assessment of routing of construction traffic to the site.
- b) Route construction vehicles so gross vehicle weight does not exceed Kentucky Transportation Cabinet maximum weight limitations.
- c) Bond the roads where limitations may be exceeded and repair the roads upon completion of construction.
- d) Develop and implement a maintenance of traffic plan to maintain traffic flow when construction equipment is being transported to the site.

#### **5. Air Quality**

- a) Implement best management practices, including but not limited to periodic soil wetting, use of alternatively fueled equipment, use of other emissions controls applicable to on-site equipment, and reduction of equipment and construction vehicle idling time, to reduce air emissions.
- b) Obtain an air quality permit from the Kentucky Department for Environmental Protection for air emission sources in compliance with Kentucky Administrative Regulations, Title 401, Chapter 52, Section 040 (401 KAR 52: 040), State-origin Permits.

#### **6. Noise**

- a) Use noise bellows systems on pile driving equipment.
- b) Schedule louder construction activities from mid-morning to mid-afternoon for less intrusive times.
- c) Limit construction activities to daytime hours to the extent feasible.
- d) Implement a blasting plan and informing local community about blasting activity dates.

#### **7. Infrastructure and Utilities**

- a) Pay natural gas infrastructure owners for costs associated with closure, abandonment, and/or relocation of the wells and associated pipelines.
- b) Comply with applicable federal and state regulations regarding the permanent closure and abandonment of gas wells and the relocation of the pipes.

## **8 . Water Resources**

- a) Pay a fee into the in-lieu fee mitigation program managed by the Kentucky Department of Fish and Wildlife Resources.
- b) Prepare and implement a Groundwater Protection Plan in compliance with Kentucky Administrative Regulations , Title 401, Chapter 5, Section 37 (401 KAR 5:03 7) , Groundwater Protection Plans.

## **9 . Biological Resources**

- a) Implement the following Reasonable and Prudent Measure stipulated in the U.S. Fish and wildlife Service (USFWS) Biological Opinion (BO) regarding potential impacts to the Indiana bat, northern long-eared bat, and gray bat from the Preferred Alternative: the Bureau shall ensure that the project will occur as designed, planned, and documented in the Biological Assessment and this BO.
- b) Comply with the following Term and Condition, which implements the above Reasonable and Prudent Measure, specified in the BO: the Bureau shall ensure that the project will occur as designed, planned, and documented in the Biological Assessment and this BO.
- c) Incorporate the following Conservation Measures documented in the Biological Assessment in project design and construction:
  - (i.) Contribute to the Imperiled Bat Conservation Fund as compensatory mitigation for adverse effects on Indiana bats and northern long-eared bats.
  - (ii.) Develop and implement a Kentucky Division of Water-approved erosion and sediment control plan.
  - (iii.) Avoid tree removal during June and July.
  - (iv.) Avoid blasting from November 15 through March 31.
  - (v.) Conduct construction activities from April 15 through October 31 in suitable Indiana bat and/or northern long-eared bat habitat during daylight hours.
  - (vi.) Direct construction lighting toward construction activities and away from forested habitat during any nighttime construction activities.
  - (vii.) Require construction contractors to inspect vehicles and equipment to ensure visible plant and seed material has been removed prior to entering the project area.
  - (viii.) Install the facility's outdoor lights with full cutoff fixtures (emit no direct up light).
  - (x.) Fence off the feature identified as potential hibernaculum and installing warning signs around the area to prevent disturbance.

- d) Incorporate the required reporting/ monitoring requirements from the USFWS BO into the Monitoring and Enforcement Program (MEP) for the project, is described in Section VII of this ROD.

## **10. Hazardous Materials and Waste**

- a) Comply with applicable federal and state regulations regarding the management of hazardous materials and waste.
- b) Use, store, and properly dispose of batteries and containerized pesticides, herbicides, paints, and solvents.
- c) Comply with Kentucky Administrative Regulations, Title 401, Chapter 100, Section 30 (401 100: 030), Remediation Requirements, for the remediation of three identified locations of petroleum releases from a petroleum extraction operation, and submit all associated cleanup reports and records to the Kentucky Department for Environmental Protection (DEP) Division of Waste Management, Superfund Branch-Petroleum Cleanup Section in accordance with the procedures outlined in DEP 7097C, Closure Report for Petroleum Releases and Exempt Petroleum Tank Systems.
- d) Design facilities intended for human occupancy to prevent occupant exposures to radon above the USEPA action level of 4 pCi/L (picocuries per liter).
- e) Incorporate the following Bureau Technical Design Guidelines in the design of the outdoor firing range to prevent lead contamination outside of the range itself: safety baffles, berms and backstops to contain bullets to a designated area; impoundments, traps, and other structures to catch lead particles; and stormwater systems to gather runoff and allow infiltration within the range bermed area .
- f) Perform regular maintenance of the above range features.

## **11. Climate**

- a) In consideration of Executive Order 13693, Planning for Federal Sustainability in the Next Decade, and the Council on Environ-mental Quality's Final NEPA Guidance on Consideration of the Effects of Climate Change and

Greenhouse Gas Emissions, design and construction of the USP and FPC will comply with the design and operation standards and practices included in the following:

- (i.) U.S. Green Building Council's Leadership in Environmental and Energy Design (LEED) prerequisites and credits for Silver certification.
- (ii.) 10 CFR 433, Energy Efficient Standards for the Design and Construction of New Federal Commercial and Multi-family High Rise Residential Buildings.
- (iii.) 10 CFR 436 Federal Energy Management and Planning Programs.
- (iv.) IEEE Standard 739 - IEEE (Institute of Electrical and Electronics Engineers) Recommended Practice for Energy Conservation and Cost Effective Planning in Industrial Facilities.

## **VI. DECISION**

Based on consultation with consulting agencies; consideration of potential environmental consequences; Bureau operational , security, and management needs for current Mid-Atlantic Region facilities; public comments on the February 2015 Draft EIS, July 2015 Final EIS, March 2016 RFEIS, March 2017 Draft Supplemental RFEIS, and September 2017 Final Supplemental RFEIS; and my being apprised of the material and information contained in the 2016 RFEIS and 2017 Final Supplemental RFEIS, I have decided to select Modified Alternative 2-Roxana, as summarized above and described in detail within the 2017 Final Supplemental RFEIS, for the proposed land acquisition and development of a USP and FPC in Letcher County. Development of the proposed project under Modified Alternative 2-Roxana is contingent on the availability of funding sufficient to proceed.

## **VII. RATIONALE**

My decision is based on the following factors:

The Bureau has a continuing need for additional safe and secure facilities in the Mid-Atlantic Region, where every existing high-security facility is operating above its rated capacity and their associated FPCs are at or near capacity, thereby compromising the mission of the Bureau. In response, the Bureau has committed resources to identifying, evaluating, acquiring, and developing a site for an additional USP and associated FPC for mission support.

Development of the USP and FPC is proposed as a means of reducing inmate overcrowding at other federal correctional facilities in the Mid-Atlantic Region. Each alternative plan was evaluated against operational, environmental, and infrastructure criteria until a preferred alternative was identified that best met project objectives while accommodating security considerations, logistics, and costs. Development of the USP and FPC under Modified Alternative 2-Roxana best meets the project's goals and objectives, and because development of this alternative would have fewer impacts on the human and natural environment, it is considered by the Bureau to be the environmentally preferable alternative.

Construction and operation of the proposed USP and FPC under Modified Alternative 2-Roxana will result in significant impacts to topography, geology and soils, and less than significant impacts to land use, community facilities and services, transportation and traffic, air quality, noise, infrastructure and utilities, water resources, biological resources, and hazardous materials and waste, as defined by NEPA. While construction and operation of the proposed USP and FPC under Modified Alternative 2-Roxana will cause unavoidable impacts, construction and operation activities will comply with all federal statutes, implementing regulations, Executive Orders, and other consultation, review, and permit requirements potentially applicable to this project. Any unavoidable adverse impacts to land use, topography, geology and soils, community facilities and services, transportation and traffic, air quality, noise, infrastructure and utilities, water resources, biological resources, and hazardous materials and waste will be controlled, reduced, or eliminated by the avoidance, minimization, and mitigation measures identified in Section IV.D of this ROD. The project will comply with the regulatory requirements of the Clean Water Act (33 U.S.C. 1251 et seq.).

The Bureau will coordinate with the U.S. Army Corps of Engineers on permit requirements and will obtain all required permits for the placement of fill material and potential disturbance of wetlands and other waters of the U.S. prior to construction. In addition, the Bureau will comply with the Terms and Conditions implementing the Reasonable and Prudent Measures specified in the USFWS BO for project effects on the Indiana bat and the northern long-eared bat in accordance with Section 7 of the Endangered Species Act (16 U.S.C. 1531-1544).

The Bureau will develop and implement a Monitoring and Enforcement Program (MEP) to ensure that the proposed avoidance, minimization, and mitigation measures documented within this ROD are implemented as part of the project. The MEP will identify the timing, responsibility, and method of implementation of the proposed measures, as well as any required monitoring and enforcement activities. As part of this program, each project contractor will be required to implement the mitigation measures arising from its project activities. The Bureau or its authorized agencies will inspect and monitor these measures to ensure compliance. The Bureau will implement any mitigation measures required for USP and FPC operation. The Bureau will maintain the MEP throughout project implementation and will include the MEP in the project administrative record. Any continuing obligations will be maintained by the Bureau.

Development of the proposed USP and FPC under Modified Alternative 2 -Roxana will result in beneficial impacts by reducing crowded conditions in federal correctional facilities within the Mid-Atlantic Region, particularly in high-security male facilities, by providing a much-needed new facility to meet existing inmate housing needs. Beneficial impacts to the local economy of Letcher County will also be realized due to the addition of a 300-person workforce for the facility and the associated gains in expenditures and tax revenues.

The Bureau will rely upon public utility authorities for the provision of water and sewage treatment services. Positive economic benefits will accrue to these utility authorities from the provision of such services. Plans for the expansion of utility capacities will be fully coordinated with all appropriate agencies.

Prior to making my final decision, I carefully considered comments received following the publication of the 2016 RFEIS, and comments received prior to expiration of the 30-day review period on the 2017 Final Supplemental RFEIS. The comments and responses thereto are hereby acknowledged and measures to avoid, minimize, and mitigate potential adverse impacts are documented within Section IV.D of this ROD.

In addition, I have carefully considered potential environmental justice impacts of the proposed action as discussed in the 2016 RFEIS, together with comments concerning environmental justice submitted during the EIS and Supplemental RFEIS process. Pursuant to Executive Order 12898, Federal agencies are required

to make achieving environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of their programs, policies, and activities on minority and low-income populations. As concluded in the 2016 RFEIS, I have determined that the proposed action will not result in either a disparate or significantly adverse impact to any low-income or minority population to which Executive Order 12898 is applicable.

#### **VIII. CONCLUSION**

After consulting with Bureau staff and being appraised of material in the Draft EIS, 2016 RFEIS, and 2017 Final Supplemental RFEIS, it is my decision that the Bureau select Modified Alternative 2-Roxana for the land acquisition and development of a USP and FPC in Letcher County.

Mark S. Inch  
Director

Federal Bureau of Prisons  
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